

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1231 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GORASIA RAVJI PREMJI

Versus

KANBI PURBAI HARJI

Appearance:

MS ROOPAL R PATEL for Petitioners
MR CH VORA for Respondent No. 1
None present for Respondent No. 2
MR HS MUNSHAW for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/02/2000

ORAL JUDGEMENT

#. Rule. Mr.Vora and Mr.Munshaw waive service of Rule
on behalf of respondents No.1 and 3 respectively.

#. Heard the learned counsel for the parties and perused the impugned order.

#. The law is well settled that amendments in the pleadings are to be liberally granted. Even if there is some delay in making of application for amendment if any prejudice is caused to the other side, it can be compensated by awarding cost to that party. Here a very innocuous amendment is prayed in the plaint. The plots in dispute, as per the case of the plaintiffs were kept in the scheme reserved for public purposes by respondent No.1. The petitioners have apprehended that those plots which were kept for public purposes are likely to be disposed of by respondent No.1 and the suit has been filed. In the suit, this application is filed and amendment is sought in the plaint to incorporate the prayer that the Gram Panchayat, the respondent No.2, be given possession of these plots for their administration and control and it may develop the same for public purposes, I fail to see any justification in objection of the other side against this amendment sought in the plaint by the plaintiffs. The reasons given by the learned trial court for rejecting this part of the prayer is wholly perverse. The petitioners who are plot holders in the scheme can have a legitimate claim that whatever land is reserved for public purposes has to be continued for the said purposes. If they are having apprehension that it is likely to be converted for other purposes then certainly such a prayer could have been made. Ultimately whether it is granted or not by the court after trial is not the question to be gone into and decided at this stage. The defendants are free to raise whatever objection they want to raise against the amended pleadings. In case this order of the learned trial court is allowed to stand, it will occasion failure of justice to the petitioners for the reason that if ultimately they succeed in making out a case that these plots meant for public purposes and are to be kept under the control of the Gram Panchayat and in absence of such prayer that relief cannot be granted.

#. In the result, this revision application succeeds and the same is allowed and the application filed by petitioners for amendment of the plaint is granted in toto. Rule is made absolute accordingly with no order as to costs.

.....

[sunil]

